

§ 152.16 Judicial changes in classification.

The following procedures apply to changes in classification made by decision of either the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit, except to the extent otherwise provided in a ruling published in the Customs Bulletin pursuant to § 177.10(a) of this chapter:

(a) *Identical merchandise under decision favorable to Government.* The principles of any court decision favorable to the Government shall be applied to all merchandise identical with that passed on by the court which is covered by unliquidated entries, whether for consumption or warehouse.

(b) *Similar merchandise under decision favorable to Government.* The principles of any court decision favorable to the Government shall be applied to merchandise, though not identical with the merchandise the subject of the court's decision, if its classification is affected by such principles, provided that it has been entered or withdrawn for consumption after 30 days from the date of publication of the court's decision in the Customs Bulletin.

(c) *Higher rate.* If a court decision overruling a protest contains a definite statement that a higher rate than that assessed by the port director was properly chargeable, such higher rate shall be applied to all merchandise, whether identical or similar to that passed on by the court, which is affected by the principles of the court's decision and which is entered or withdrawn for consumption after 30 days from the date of the publication of the court's decision in the Customs Bulletin.

(d) *American manufacturer's petition upheld.* If the court upholds a petition made by an American manufacturer, producer, or wholesaler under the provisions of section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), the principles of the court's decision shall be applicable to all merchandise of that character which is entered or withdrawn for consumption after the date of publication of the court's decision in the Customs Bulletin. The liquidation of entries covering merchandise of that character made after publication of the court's decision shall be suspended in

accordance with § 159.57 of this chapter pending any rehearing or review, then liquidated, or, if necessary, reliquidated in accordance with the final judicial decision.

(e) *Other decisions adverse to Government.* Unless the Commissioner of Customs otherwise directs, the principles of any court decision adverse to the Government (except for a decision upholding an American manufacturer's petition as covered in paragraph (d) of this section) shall be applied to unliquidated entries and protested entries which have not been denied in whole or in part and in which the same issue is involved as soon as the time within which an application for a rehearing or review may be filed has expired without such application having been made. See § 176.31 of this chapter for the treatment of entries which are the subject of a court decision.

[T.D. 73-175, 38 FR 17477, July 2, 1973, as amended by T.D. 75-186, 40 FR 31928, July 30, 1975; T.D. 85-90, 50 FR 21430, May 24, 1985]

§ 152.17 Changes in classification by Congress or by Presidential Proclamation.

When a rate of Customs duty or internal revenue tax imposed upon or by reason of importation is changed by an act of Congress or by a proclamation of the President, the new rate shall be applied in accordance with the detailed instructions in § 141.69 of this chapter, which provides in general that the rates of duty applicable to merchandise shall be those in effect on the date of entry or withdrawal for consumption, except for certain merchandise covered by an entry for immediate transportation or overcarried and returned to the port of entry.

Subpart C—Appraisement

§§ 152.20–152.22 [Reserved]

§ 152.23 Merchandise imported from intermediate countries.

Merchandise imported from one country, being the growth, production, or manufacture of another country, shall for value purposes (see sections 402, Tariff Act of 1930, as amended; 19 U.S.C. 1401a) be treated as an exportation of the country from which it is

immediately imported. However, if it appears by the invoice, bill of lading, or other evidence that the merchandise was destined for the United States at the time of original shipment, it shall be treated as an exportation of the country from which it was originally exported. The term "country" is to be regarded for the purposes of this section as embracing all the possessions of a nation, however widely separated, which are subject to the same supreme executive and legislative authority and control.

[T.D. 73-175, 38 FR 17477, July 2, 1973, as amended by T.D. 87-89, 52 FR 24446, July 1, 1987]

§ 152.24 [Reserved]

§ 152.25 Conversion of foreign currency.

When foreign currency must be converted for purposes of appraisement, the instructions in subpart C of part 159 of this chapter shall be followed.

§ 152.26 Furnishing value information to importer.

The port director shall furnish to importers the latest information as to values in his possession, subject to the following conditions:

(a) *Before appraisement.* Value information shall be given before appraisement only in response to a specific oral or written request by the importer, supported by an adequate reason for the request, or where required by Customs purposes, such as in determining proper estimated duties to be deposited or notification of increased duties in accordance with § 152.2.

(b) *Only for merchandise under port director's jurisdiction.* The information shall be given only in regard to merchandise to be appraised by, or under the jurisdiction of, the port director who receives the request, and only with respect to merchandise for which there is presented evidence of a firm commitment or intent to import such merchandise into the United States.

(c) *Information by importer.* Each request shall be accompanied by the latest information as to the values in question which the importer has or can reasonably obtain.

(d) *Information not binding.* Value information shall be given by the port director only with an understanding and agreement in each case that the information is in no sense an appraisement and is not binding upon the port director's action when he appraises the merchandise.

(e) *No reply required after entry.* The port director shall not be required to reply to a written request for value information after a value for the merchandise has been declared on entry unless he has information indicating a probable appraised value different from such entered value.

Subpart D [Reserved]

Subpart E—Valuation of Merchandise

SOURCE: T.D. 81-7, 46 FR 2600, Jan. 12, 1981, unless otherwise noted.

§ 152.100 Interpretative notes.

The interpretative notes set forth in this subpart have been derived from information contained in the Statement of Administrative Action relating to customs valuation, submitted to and approved by Congress along with the Trade Agreements Act of 1979 (Pub. L. 96-39), and will have the force and effect of regulations issued under this subpart.

§ 152.101 Basis of appraisement.

(a) *Effective date.* The value for appraisement of merchandise exported to the United States on or after July 1, 1980, or, for articles classified under subheading 6401.10.00 Harmonized Tariff Schedule of the United States (19 U.S.C. 1202), on or after July 1, 1981, will be determined in accordance with section 402, Tariff Act of 1930 (19 U.S.C. 1401a), as amended by section 201, Trade Agreements Act of 1979.

(b) *Methods.* Imported merchandise will be appraised on the basis, and in the order, of the following:

(1) The transaction value provided for in § 152.103;

(2) The transaction value of identical merchandise provided for in § 152.104, if